

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

EARNEST J. MATTHEWS

§

VS.

§

CIVIL ACTION NO. 1:18cv9

SYED AHMED, ET AL.

§

ORDER OVERRULING OBJECTIONS AND ACCEPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Earnest J. Matthews, an inmate confined within the Texas Department of Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit. The remaining defendants are Syed Ahmed and Patricia Miller.

The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending that this case be dismissed for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

Plaintiff contends that calling a black man the n-word is a civil rights violation. He further contends using that racial slur and then pushing the man down constitutes a hate crime.

The court condemns the use of racial slurs. However, the magistrate judge correctly concluded that verbal insults and epithets do not constitute a violation of the Constitution. Further, plaintiff's allegation is not that defendant Miller pushed him down, but that she pushed an inmate named Castillo down. Article III of the Constitution does not give plaintiff standing to complain about Mr. Castillo being mistreated. *Warth v. Seldin*, 422 U.S. 490, 499 (1975).

Plaintiff also states he was treated differently than other inmates because he talked politics with defendant Ahmed and that defendant Miller assaulted Mr. Castillo because she thought plaintiff had told him something she did not want Mr. Castillo to know.

Being treated differently than other inmates constitutes a violation of equal protection. However, plaintiff does not explain how he was treated differently. Moreover, he states any different treatment was based upon political discussions rather than race. In addition, as previously stated, plaintiff does not have standing to complain about Mr. Castillo being mistreated.

With respect to defendant Ahmed, plaintiff asserts he has stated a claim because he alleges that when defendant Ahmed grew tired of inmates complaining about defendant Miller, he began telling inmates to complain directly to defendant Miller. However, plaintiff has not shown that such action was improper. Nor has he demonstrated defendant Ahmed was aware inmates would be mistreated if they complained to defendant Miller directly.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment shall be entered dismissing this lawsuit.

**SIGNED** this the 21 day of **January, 2021**.

A handwritten signature in black ink, appearing to read 'Thad Heartfield', written over a horizontal line.

Thad Heartfield  
United States District Judge